

CLOSED

**U.S. District Court  
Middle District of Florida (Tampa)  
CIVIL DOCKET FOR CASE #: 8:11-cv-00223-VMC-AEP**

Wingate et al v. U.S. Department of Homeland Security, Federal Emergency Management Agency  
Assigned to: Judge Virginia M. Hernandez Covington  
Referred to: Magistrate Judge Anthony E. Porcelli  
Cause: 05:0552 Freedom of Information Act

Date Filed: 02/02/2011  
Date Terminated: 05/31/2012  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****Brian Wingate**

represented by **Lee Lamont Haas**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Plaintiff****Danielle Wingate**

represented by **Lee Lamont Haas**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****U.S. Department of Homeland Security, Federal Emergency Management Agency**

represented by **Jennifer Waugh Corinis**  
United States Attorney  
400 North Tampa Street  
Suite 3200  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Mediator****James R. Case**

represented by **James R. Case**  
Law Office of James Case  
205 Palm Island NW  
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727/443-6513  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
02/02/2011	<u>1</u>	COMPLAINT against U.S. Department of Homeland Security, Federal Emergency Management Agency (Filing fee \$350 receipt number TPA3334) filed by Brian Wingate, Danielle Wingate. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Civil Cover Sheet) (DMS) (Entered: 02/02/2011)

02/23/2011	<u>3</u>	Summons Issued as to U.S. Department of Homeland Security, Federal Emergency Management Agency. (CD) (Entered: 03/17/2011)
03/16/2011	<u>2</u>	SUMMONS Returned Executed by Brian Wingate, Danielle Wingate. All Defendants. (Attachments: # <u>1</u> Affidavit Affidavit of Process Server)(Haas, Lee) (Entered: 03/16/2011)
04/19/2011	<u>4</u>	First MOTION for entry of clerk's default against All Defendants by All Plaintiffs. (Haas, Lee) Motions referred to Magistrate Judge Anthony E. Porcelli. (Entered: 04/19/2011)
04/22/2011	<u>5</u>	*SET ASIDE PURSUANT TO <u>7</u> ORDER.* CLERK'S ENTRY OF DEFAULT as to U.S. Department of Homeland Security, Federal Emergency Management Agency (CD) Modified on 5/24/2011 (CD). (Entered: 04/22/2011)
05/18/2011	<u>6</u>	MOTION for default judgment against All Defendants by All Plaintiffs. (Attachments: # <u>1</u> Affidavit in Support of Plaintiffs' Motion for Entry of Default Judgment)(Haas, Lee) (Entered: 05/18/2011)
05/23/2011	<u>7</u>	ORDER: Brian and Danielle Wingate's Motion for Entry of Default Judgment <u>6</u> is DENIED. The Clerk's Entry of Default <u>5</u> is set aside. The Wingates have 45 days to effect service of process upon Defendants. Signed by Judge Virginia M. Hernandez Covington on 5/23/2011. (KAK) (Entered: 05/23/2011)
05/23/2011	<u>8</u>	RESPONSE in opposition re <u>6</u> MOTION for default judgment against All Defendants filed by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 05/23/2011)
06/24/2011	<u>9</u>	ANSWER and affirmative defenses to <u>1</u> Complaint by U.S. Department of Homeland Security, Federal Emergency Management Agency.(Corinis, Jennifer) (Entered: 06/24/2011)
08/23/2011	<u>10</u>	NOTICE of designation under Local Rule 3.05 – track 2 (LS) (Entered: 08/23/2011)
09/01/2011	<u>11</u>	MOTION for miscellaneous relief, specifically redesignate case as a track one case by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 09/01/2011)
09/09/2011	<u>12</u>	RESPONSE to motion re <u>11</u> MOTION for miscellaneous relief, specifically redesignate case as a track one case <i>Plaintiffs' Response to Defendant's Motion to Redesignate Action as a Track One Case</i> filed by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 09/09/2011)
09/14/2011	<u>13</u>	ORDER: Defendants' Motion to Redesignate Action as a Track One Case <u>11</u> is DENIED. The Court directs the parties to file a Case Management Report within 30 days of the date of this Order. Signed by Judge Virginia M. Hernandez Covington on 9/14/2011. (KAK) (Entered: 09/14/2011)
10/13/2011	<u>14</u>	CASE MANAGEMENT REPORT. (Haas, Lee) (Entered: 10/13/2011)
10/18/2011	<u>15</u>	CASE MANAGEMENT AND SCHEDULING ORDER: Pretrial statement due by 9/6/2012, Final Pretrial Conference set for 9/13/2012 at 09:00 AM in Tampa Courtroom 14 B before Judge Virginia M. Hernandez Covington. Bench Trial set during the October, 2012 trial calendar at 09:00 AM in Tampa Courtroom 14 B before Judge Virginia M. Hernandez Covington. See actual order for additional deadlines. Signed by Judge Virginia M. Hernandez Covington on 10/18/2011. (LS) (Entered: 10/18/2011)
10/18/2011	<u>16</u>	ORDER REFERRING CASE to mediation and directing selection of a mediator within twenty days of the date of this Order. Plaintiffs' counsel to coordinate dates. Mediation shall be conducted on or before May 4, 2012. Signed by Judge Virginia M. Hernandez Covington on 10/18/2011. (KAK) (Entered: 10/18/2011)
11/07/2011	<u>17</u>	STIPULATION re <u>16</u> Order referring case to mediation <i>Joint Stipulation Selecting Mediator</i> by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 11/07/2011)
11/10/2011	<u>18</u>	ORDER appointing James R. Case, Esq. as mediator in this action. See Order for details. Signed by Judge Virginia M. Hernandez Covington on 11/10/2011. (KAK)

		(Entered: 11/10/2011)
12/02/2011	<u>19</u>	MOTION for summary judgment by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Attachments: # <u>1</u> Affidavit Dr. Anthony Bennett, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Exhibit K, # <u>13</u> Exhibit L, # <u>14</u> Exhibit M, # <u>15</u> Exhibit N, # <u>16</u> Exhibit O, # <u>17</u> Exhibit P, # <u>18</u> Exhibit Q, # <u>19</u> Exhibit R, # <u>20</u> Exhibit S, # <u>21</u> Exhibit T, # <u>22</u> Exhibit U, # <u>23</u> Exhibit V, # <u>24</u> Exhibit W-1, # <u>25</u> Exhibit W-2, # <u>26</u> Exhibit W-3, # <u>27</u> Exhibit W-4, # <u>28</u> Exhibit W-5, # <u>29</u> Exhibit X-1, # <u>30</u> Exhibit X-2, # <u>31</u> Exhibit X-3, # <u>32</u> Exhibit X-4, # <u>33</u> Exhibit X-5, # <u>34</u> Exhibit X-6, # <u>35</u> Exhibit X-7, # <u>36</u> Exhibit X-8, # <u>37</u> Exhibit X-9, # <u>38</u> Exhibit X-10, # <u>39</u> Exhibit X-11, # <u>40</u> Exhibit X-12, # <u>41</u> Exhibit Z)(Corinis, Jennifer) <b>*IMAGES FOR EXHIBITS G, T AND W-1 HAVE BEEN REMOVED DUE TO PRIVACY ISSUES. COUNSEL HAS BEEN NOTIFIED TO FILE REDACTED EXHIBITS.</b> Modified on 12/5/2011 (CD). (Entered: 12/02/2011)
12/06/2011	<u>20</u>	NOTICE by U.S. Department of Homeland Security, Federal Emergency Management Agency re <u>19</u> MOTION for summary judgment (Attachments: # <u>1</u> Exhibit Redacted G, # <u>2</u> Exhibit Redacted T, # <u>3</u> Exhibit Redacted W-1)(Corinis, Jennifer) (Entered: 12/06/2011)
12/09/2011	<u>21</u>	<i>Notice of Scheduled Mediation</i> NOTICE of mediation hearing to be held on April 17, 2012 @ 9:00 a.m. before James R. Case. (Haas, Lee) (Entered: 12/09/2011)
12/15/2011	<u>22</u>	MOTION for extension of time to file response/reply as to <u>19</u> MOTION for summary judgment by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 12/15/2011)
12/16/2011	23	ENDORSED ORDER granting <u>22</u> Plaintiffs' Motion for Extension of Time to File a Response in Opposition to Defendant's Motion for Summary Judgment. Plaintiffs have until and including January 17, 2012, to respond to the Motion for Summary Judgment. Signed by Judge Virginia M. Hernandez Covington on 12/16/2011. (KAK) (Entered: 12/16/2011)
01/17/2012	<u>24</u>	RESPONSE in opposition re <u>19</u> MOTION for summary judgment filed by Brian Wingate, Danielle Wingate. (Attachments: # <u>1</u> Affidavit Affidavit in Opposition to Defendant's Motion for Summary Judgment, # <u>2</u> Exhibit Exhibit A Final Order of DPSM, # <u>3</u> Exhibit Exhibit B Final Order of DBPR, # <u>4</u> Exhibit Exhibit C Berryman ltr of 9/23/09 to Rimes w-Issue Analysis and Staff Recommendation, # <u>5</u> Exhibit Exhibit D Durrin & Pailthorp e-mail string, # <u>6</u> Exhibit Exhibit E DiPasqua & Durrin e-mail string, # <u>7</u> Exhibit Exhibit F Defendant's Responses to Plaintiff's First Interrogatories)(Haas, Lee) (Entered: 01/17/2012)
02/01/2012	<u>25</u>	MOTION for leave to file Reply to Plaintiffs' Response to Defendant's Motion to Dismiss by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 02/01/2012)
02/02/2012	26	ENDORSED ORDER: Defendant's motion for leave to file a reply memorandum <u>25</u> is granted. The Court acknowledges that the request to file a reply memorandum is opposed; nevertheless, the Court determines that a reply memorandum will assist the Court in assessing the merits of the underlying motion. Accordingly, Defendant may file a reply memorandum, limited to five pages, by February 10, 2012. Signed by Judge Virginia M. Hernandez Covington on 2/2/2012. (KAK) (Entered: 02/02/2012)
02/10/2012	<u>27</u>	REPLY to response to motion re <u>25</u> MOTION for leave to file Reply to Plaintiffs' Response to Defendant's Motion to Dismiss filed by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 02/10/2012)
02/13/2012	<u>28</u>	REQUEST for oral argument re <u>19</u> MOTION for summary judgment, <u>27</u> Reply to response to motion by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 02/13/2012)
03/19/2012	<u>29</u>	ORDER denying without prejudice <u>19</u> Motion for Summary Judgment. See Order for details. Signed by Judge Virginia M. Hernandez Covington on 3/19/2012.

		(KAK) (Entered: 03/19/2012)
04/02/2012	<u>30</u>	MOTION for protective order <i>and to quash deposition subpoena</i> by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Corinis, Jennifer) Motions referred to Magistrate Judge Anthony E. Porcelli. (Entered: 04/02/2012)
04/11/2012	<u>31</u>	MOTION for miscellaneous relief, specifically an order permitting agency counsel to participate in mediation by telephone by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 04/11/2012)
04/11/2012	<u>32</u>	ENDORSED ORDER: Defendant's Motion for an Order Permitting FEMA Agency Representative to Appear at Settlement Conference via Telephone <u>31</u> is granted. The Court recognizes that the Motion is opposed, and the Court notes that it normally disallows appearance at mediation by telephone. However, under the circumstances presented and particularly because a representative of the Department of Justice will attend the mediation in person, the Court finds it appropriate to allow the FEMA representative to participate in the upcoming mediation by telephone. Signed by Judge Virginia M. Hernandez Covington on 4/11/2012. (KAK) (Entered: 04/11/2012)
04/12/2012	<u>33</u>	RESPONSE to motion re <u>30</u> MOTION for protective order <i>and to quash deposition subpoena</i> filed by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 04/12/2012)
04/17/2012	<u>34</u>	NOTICE of Hearing on Motion <u>30</u> MOTION for protective order <i>and to quash deposition subpoena</i> : Motion Hearing set for 4/25/2012 at 10:00 AM in Tampa Courtroom 10 A before Magistrate Judge Anthony E. Porcelli. Any party wishing to appear telephonically should contact Judge Porcelli's chambers at 813-301-5540 by 5:00 p.m. on 4/24/2012 to provide a telephone number where the party may be reached for the hearing.(JMF) (Entered: 04/17/2012)
04/20/2012	<u>35</u>	MEDIATION REPORT Hearing held on 4/17/12 Hearing outcome: impasse(JLH) (Entered: 04/20/2012)
04/24/2012	<u>36</u>	MOTION to Dismiss for Lack of Jurisdiction by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 04/24/2012)
04/25/2012	<u>37</u>	ORDER denying <u>30</u> Motion for protective order. See Order for details. Signed by Magistrate Judge Anthony E. Porcelli on 4/25/2012. (JMF) (Entered: 04/25/2012)
04/25/2012	<u>38</u>	Minute Entry. Proceedings held before Magistrate Judge Anthony E. Porcelli: Motion Hearing held on 4/25/2012 re <u>30</u> MOTION for protective order <i>and to quash deposition subpoena</i> filed by U.S. Department of Homeland Security, Federal Emergency Management Agency. (digital) (LV) (Entered: 04/25/2012)
05/04/2012	<u>39</u>	RESPONSE in opposition re <u>36</u> MOTION to Dismiss for Lack of Jurisdiction filed by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 05/04/2012)
05/08/2012	<u>40</u>	MOTION for leave to file Brief Reply to Plaintiffs' Response to Defendant's Motion to Dismiss by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 05/08/2012)
05/09/2012	<u>41</u>	ENDORSED ORDER: Defendant's Motion for Leave to File Brief Reply to Plaintiffs' Response to Defendant's Motion to Dismiss <u>40</u> is granted. The Court acknowledges that the request to file a reply memorandum is opposed; nevertheless, the Court determines that a reply memorandum will assist the Court in assessing the merits of the underlying motion. Accordingly, Defendant may file a reply memorandum, limited to five pages, within seven days of the date of this Order. Signed by Judge Virginia M. Hernandez Covington on 5/9/2012. (KAK) (Entered: 05/09/2012)
05/11/2012	<u>42</u>	First MOTION to compel <i>Answer to Interrogatory</i> by All Plaintiffs. (Haas, Lee) Motions referred to Magistrate Judge Anthony E. Porcelli. (Entered: 05/11/2012)

05/11/2012	<u>43</u>	MOTION for extension of time to complete discovery <i>and for Extension of Dates in Case Management Report</i> by All Plaintiffs. (Haas, Lee) Motions referred to Magistrate Judge Anthony E. Porcelli. (Entered: 05/11/2012)
05/15/2012	<u>44</u>	MEMORANDUM in opposition re <u>42</u> Motion to compel filed by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Corinis, Jennifer) (Entered: 05/15/2012)
05/16/2012	<u>45</u>	REPLY to response to motion re <u>36</u> MOTION to Dismiss for Lack of Jurisdiction filed by U.S. Department of Homeland Security, Federal Emergency Management Agency. (Corinis, Jennifer) (Entered: 05/16/2012)
05/16/2012	<u>46</u>	REQUEST for oral argument re <u>45</u> Reply to response to motion, <u>39</u> Response in opposition to motion, <u>36</u> MOTION to Dismiss for Lack of Jurisdiction by Brian Wingate, Danielle Wingate. (Haas, Lee) (Entered: 05/16/2012)
05/18/2012	<u>47</u>	ORDER denying <u>42</u> Motion to compel; granting <u>43</u> Motion for extension of time to complete discovery to the extent set forth in the Order. See Order for details. Signed by Magistrate Judge Anthony E. Porcelli on 5/18/2012. (JMF) (Entered: 05/18/2012)
05/22/2012	<u>48</u>	AMENDED CASE MANAGEMENT AND SCHEDULING ORDER: Pretrial statement due by 10/4/2012, Final Pretrial Conference set for 10/11/2012 at 09:00 AM in Tampa Courtroom 14 B before Judge Virginia M. Hernandez Covington, Bench Trial set for trial term beginning 11/5/2012 at 09:00 AM in Tampa Courtroom 14 B before Judge Virginia M. Hernandez Covington. See order for details. Signed by Judge Virginia M. Hernandez Covington on 5/22/2012. (AM) (Entered: 05/22/2012)
05/31/2012	<u>49</u>	ORDER: Defendant's Motion to Dismiss for Lack of Jurisdiction <u>36</u> is GRANTED. The Clerk is directed to CLOSE THIS CASE. See Order for details. Signed by Judge Virginia M. Hernandez Covington on 5/31/2012. (KAK) (Entered: 05/31/2012)